

**21.6 GIVING FALSE INFORMATION CONCERNING THE COMMISSION OF A
CAPITAL FELONY**
§ 837.05(2), Fla. Stat.

To prove the crime of Giving False Information Concerning the Commission of a Capital Felony, the State must prove the following six elements beyond a reasonable doubt:

- 1. (Defendant) knowingly gave information about the alleged commission of a crime.**
- 2. (Defendant) knew the information was false.**
- 3. The crime alleged was a capital felony.**
- 4. (Defendant) gave the false information to (name of the law enforcement officer).**
- 5. (Name of law enforcement officer) was a law enforcement officer.**
- 6. (Defendant) knew that (name of law enforcement) was a law enforcement officer.**

The court now instructs you that (crime alleged) is a capital felony and that a (do not name the officer, instead insert his or her official position, such as deputy sheriff or police officer) is a law enforcement officer.

Lesser Included Offenses

**GIVING FALSE INFORMATION CONCERNING THE COMMISSION OF A CAPITAL
FELONY — 837.05(2)**

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Giving False Information Concerning A Crime		837.05(1)	21.5
	False Report of Commission of Crime	817.49	21.4

Comment

“Law enforcement officer” is not defined in chapter 837, Florida Statutes, or in case law interpreting and applying section 837.05. Trial judges may consult sections 790.001, 934.02, and 943.10 in deciding whether and how to define “law enforcement officer” for the jury.

Attempt is not a lesser included offense. See *Silvestri v. State*, 332 So.2d 351, 354 (Fla. 4th DCA 1976).

This instruction was adopted in 2007 [965 So. 2d 811] and amended in 2014.